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Summary record of the 2359th meeting
Held at Headquarters, New York, on Monday, 27 March 2006, at 10 a.m.

Chairperson: Ms. Chanet

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Organizational and other matters (*continued*)

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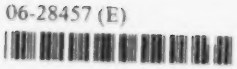

The meeting was called to order at 10.10 a.m.

Organizational and other matters (*continued*)

Working methods (CCPR/C/86/CRP.1; HRI/MC/2005/2)

1. **The Chairperson** recalled that in October 2005 the Committee had decided to appoint an informal working group, comprising Mr. Shearer, Mr. Lallah, Mr. Rivas Posada and members of the secretariat, to devise guidelines for the drafting of lists of issues relating to initial or periodic reports in such a way as to ensure that questions were neither so numerous nor so loosely phrased as to enable delegations to avoid focused answers.

2. **Mr. Shearer**, speaking as Rapporteur for the working group, drew attention to the document prepared by the working group (CCPR/C/86/CRP.1), which summarized the Committee's practice as developed especially since 1983 and refined through the experience of the past few years. Section I on the purpose of lists of issues offered nothing new. Section II on format set a new, more realistic limit of not more than 25 questions, which could be handled well in the time allotted for discussion of initial and periodic reports; the structure of the lists remained unchanged; as to style and formulation, the one new recommendation was that questions should make no reference to outside information received, although such sources could be referred to in members' oral questions during the consideration of a report; and as to helpful references included in the lists of issues, it was now being recommended that footnotes mentioning all sources of information used in the drafting should be retained in the version of the lists of issues for internal use by Committee members, but not in the State party version, which would be made public.

3. Most of the discussion in the working group regarding section III on content had focused on the standard questions asked of State parties, which had been enumerated. However, since it was felt that the standard questions were too blunt an instrument, it was recommended that they should be included only if relevant to the particular circumstances in a country. Vague and broad questions should be avoided. Priority should be given to issues on which information was not easily available, and to issues not already raised by other treaty bodies in order to avoid, as far as possible, mere repetition of questions. That last point was a difficult one because there was always some degree of overlap between the Committee's areas of competence and those of other treaty bodies; the point was that the Committee should be sensitive and try not to trespass on the province of the other bodies, although that might be impossible to avoid altogether.

4. Lastly, the working group had been undecided as to whether the guidelines themselves should remain an internal Committee document or should be made public.

5. **Mr. O'Flaherty** said that he definitely felt the guidelines should be put in the public domain, for it was in everyone's interest to make the Committee's work well known: it would help States parties respond appropriately and give non-governmental organizations an idea of the timing involved. The paragraph regarding footnotes could be restricted to the version of the guidelines used by the Committee.

6. **Mr. Lallah** said that it was common practice for the Committee to include footnotes in a draft document giving information useful to it in its own work and later to take a decision to remove some or all of them when the document was adopted and made public — as, for example, in its decisions and Views on communications. The working group had even mentioned the idea of having two versions of the lists of issues. If the guidelines were published, the final paragraph in section II dealing with the point should be deleted.

7. **Mr. Rivas Posada** proposed that the reference to follow-up to previous concluding observations should be deleted from the second paragraph under section III, in the subparagraph dealing with information requested from States parties in the case of periodic reports since a request for information about such follow-up had been listed in the next paragraph as one of the standard questions.

8. **The Chairperson**, speaking in her personal capacity, said that her own inclination would be to deal with the redundancy by keeping the text of the subparagraph on periodic reports as it stood, and deleting from the enumeration of typical standard questions any reference to follow-up to concluding observations. The concern with follow-up related to each and every issue raised. That should be the entire focus of subsequent periodic reports and the related

lists of issues. Indeed, a number of States parties were already following that approach.

9. **Mr. Lallah** agreed with the Chairperson that the follow-up by States parties to concluding observations should be directed to the particular issues, the articles of the Covenant, that were the subject of questions.

10. **Mr. Solari Yrigoyen**, referring to the final subparagraph in section III regarding the avoidance of overlap with other treaty bodies, said that the stricture should be only relative. If, for instance, a number of years had passed since another treaty body had asked a particular question, there was no reason for the Committee not to raise it again, provided it fell within its area of competence; and it would even serve to reinforce the point.

11. **Mr. O'Flaherty** proposed deleting the entire last paragraph of section III citing two more issues that might be given priority, because priority should be given only to issues of the highest importance, as stated in the first paragraph of section III. Furthermore, the Committee should not shackle itself in advance by making issues raised by other treaty bodies off-limits in any way.

12. **The Chairperson**, speaking in her personal capacity, agreed that the Committee should always be free to ask any question having to do with any area of the Covenant.

13. **Sir Nigel Rodley** said that he thought it was worth maintaining the last paragraph of section III, with certain modifications. The last subparagraph set a good approach to bear in mind: that the Committee should focus on the central contributions it could make to any issue. He proposed adding the word "generally" to the phrase "priority may be given to", and amending the second subparagraph to read: "Issues not already raised in more detail by other treaty bodies".

14. **The Chairperson** observed that such a formulation would still discourage any less useful overlapping between treaty bodies. The question remained as to whether the draft guidelines should be adopted as an official, and hence public, document of the Committee.

15. **Mr. Khalil** said that he saw no reason to make it public. The guidelines were an internal document for the Committee's guidance and it should maintain flexibility of action in cases that might come up later on which did not correspond to each and every point set down.

16. **Sir Nigel Rodley** said that, in the interests of transparency, it probably should be made a public document, however, it should be clearly indicated in the Committee's annual report that the guidelines adopted were internal guidelines setting out a useful general approach but not imposing a standard to which the Committee must be held. Depending on the outcome of the adoption of the so-called consolidated reporting process by the treaty bodies, a new set of guidelines would eventually have to be adopted and those, too, would have to be made public.

17. **Mr. Giele Ahanhanzo** said that the draft guidelines should remain an internal, not an official, document.

18. **Mr. Amor** said that the guidelines would be most useful if they were left as flexible as possible, and that it would be best to adopt them as an internal document only.

19. **Mr. Lallah** suggested that, in that case, the title should be changed to indicate that they were working guidelines for the secretariat and the Committee's country task forces for the drafting of lists of issues.

20. **The Chairperson** said that the sense of the Committee seemed to be that the document should remain an internal one; that the redundancy in section III regarding the references to follow-up to concluding observations should be eliminated; that the final subparagraph of section III should be amended along the lines proposed by Sir Nigel; and that the title should be reworded.

21. *It was so decided.*

22. **The Chairperson** invited the two representatives designated by the Committee, Mr. Wieruszewski and Ms. Palm, to inform the Committee as to what had been done by the technical working group in Geneva studying methods of rationalizing the work of treaty bodies, in particular the idea of having States parties prepare a core document common to all of their reports to treaty bodies.

23. **Mr. Wieruszewski** said that the technical working group, which had been established by decision of the Meeting of Chairpersons of the Human Rights Treaty Bodies and the Inter-Committee Meeting and was composed of representatives of all of the treaty

bodies, had met twice in Geneva, once in December 2005 and again in February 2006; he had been unable to attend the second meeting. Generally speaking, there seemed to be two parallel scenarios operating: on the one hand, there was the old idea of combining all of the treaty bodies into a single unified body that would examine all reports and, on the other, there was the general wish to improve the existing system.

24. After lengthy discussions, the working group had worked out a set of guidelines for States parties for the preparation of a common core document that would contain, at a minimum, all documents needed for the consideration of a particular State party's report. It would, however, be difficult for the Committee to discuss the guidelines, as he had only just received them and they were in English only. The hope was, apparently, that all treaty bodies would study the guidelines and empower their chairpersons to make a decision thereon at the next meeting of the chairpersons. Each treaty body was free to reject the guidelines and even the idea of a common core document. A few States parties had expressed interest in the idea of a common core document and were already preparing their reports with that in mind.

25. The original draft of the guidelines had contained a long list of topics to be covered in the core document. The list had been considerably shortened, partly to ensure that the core document would not be seen as a substitute for the report to each treaty body. The idea was that each State party's submission would consist of the common core document along with a report specific to each treaty body.

26. **The Chairperson**, speaking in her personal capacity, noted that the document was only a draft and had been sent to participants in the meetings so they could verify that it reflected the position they had presented. Since the Committee had charged its representatives with presenting and defending its views she would like to hear more about that presentation and defence.

27. **Ms. Palm**, reporting on the second meeting, said that it had been clear to her that a number of decisions regarding the common core document proposal had already been taken, and it had seemed impossible to do much more to defend the position of the Committee. Most of the substantive rights initially proposed for inclusion in the common core document had been deleted, leaving only issues concerning discrimination and equality and effective remedies. The general view of the meeting had been that States parties would have to submit a common core document, which would be updated for each submission, and a treaty-specific document. The core document would present the legal basis and relevant institutions for the protection of human rights, as well as the conceptual framework for the elimination of discrimination. The hope of the working group had been that each treaty body would review the draft guidelines so that a decision to adopt or reject them could be taken at the June meeting of the chairpersons. The guidelines would be reviewed again after a year.

28. **The Chairperson**, speaking in her personal capacity, said that, since the document was nearly 50 pages long and was not yet available in all needed languages, it was difficult to see how the Committee could advise its representatives as to what action to take at the next meeting. The Committee needed to hear in what respect the proposal differed from the Committee's position.

29. **Sir Nigel Rodley** expressed frustration at the fact that the Committee was being asked to take a position on the draft guidelines without having seen them. It was very disturbing to hear that some substantive rights were still included in the proposal for a common core document. The Committee's — a position shared by most of the other treaty bodies and clearly stated — had been that they should not be included.

30. **Mr. Wieruszewski** said he had presented the Committee's position against the inclusion of substantive rights in the core document; 80 per cent of the substantive rights had, in fact, been deleted. Under the current draft guidelines, States parties were to provide in their common core document general information on their legal and institutional structures established to implement their obligations to eliminate discrimination and protect equality, on the constitutional and legal framework for the elimination of all forms of discrimination, on the protection of the human rights of vulnerable groups, on specific measures aimed at redressing economic, social and geographic disparities in the country and on measures to implement their obligations to protect equality before the law. Each treaty body remained free to explore its own specific area of rights protection and to decide whether or not to accept the idea of the core document or particular aspects of the guidelines.

31. **The Chairperson**, speaking in her personal capacity, said that the problem was not with rationalizing the reporting procedures or combining certain aspects of the reports into a common document, but rather with the legal definitions that had been inserted in the guidelines.

32. **Mr. Amor** said that from what he had heard, it would appear that the Committee was being asked to accept something contrary to its earlier decision. He recommended that the Committee should abide by its earlier decision until such time it could study the guidelines and consider whether it wanted to change its position.

33. **Mr. Lallah** said that it would appear that decisions had been taken in the working group meetings that ran counter to the Committee's views. However, in the absence of the document, the Committee would not be able to give further instructions to its representatives and therefore there seemed to be no point in prolonging the discussion.

34. **The Chairperson** said that a core document could indeed cover the institutional means used by States to combat discrimination but that the Committee had expressed considerable reservations as to its containing a legal definition of discrimination.

35. **Mr. Amor** said that the Committee's long-held position on the issues under consideration did not seem to have been reflected in the presentations made by Ms. Palm and Mr. Wieruszewski. He reiterated his suggestion that, for the time being, the Committee's established position should be upheld in all meetings of the Inter-Committee and other relevant bodies.

36. **The Chairperson** noted that there seemed to be general agreement that the Committee should stick to its position since it had not been presented with everything in writing. Mr. Rivas Posada and Mr. O'Flaherty, who would represent the Committee at that next meeting, should bear that in mind.

37. *It was so decided.*

Proposals for the harmonization of inconsistent terminology used by the treaty bodies (HRI/MC/2005/2, Annex)

38. **Mr. Gilibert** (Secretary of the Committee) drew attention to the table containing proposals for terms, together with their definitions, which had been prepared in response to a recommendation made by the third Inter-Committee meeting (HRI/MC/2005/2, Annex).

39. **Mr. Rivas Posada** noting that the Spanish term "observaciones finales" carried a sense of finality that was not conveyed by the English term "concluding observations" wondered whether it would not be better simply to use the term "conclusions", as suggested in the table.

40. **Sir Nigel Rodley** expressed a preference for the term "concluding observations" which covered not only conclusions but also recommendations.

41. **Mr. Lallah** said that while he understood the problem that it created in the French and Spanish languages, he, too, would prefer to keep the term "concluding observations". Since the Committee dealt exclusively with States parties it had never made a recommendation, nor could he remember it having ever issued a "statement".

42. **Mr. Amor** said that while he was not entirely happy with the term "observations finales" in French, it was an established term and should not be changed simply for the sake of uniformity.

43. **The Chairperson**, speaking in her personal capacity, said that the term "general comment" was the one used in article 40 of the Covenant and should not be changed.

44. **Mr. Solari Yrigoyen** agreed that it was better to keep the terms that had always been used.

45. **Mr. O'Flaherty** stressed that the designation "concluding observations" was a term of art and that it was important generically. The treaty bodies were required to be guided by the treaties rather than by other considerations. The Committee should resist any attempts at unification.

46. **The Chairperson** noted that while consistency was desirable, seemed to be in favour of keeping the terms that had always been used.

47. *It was so decided.*

48. **The Chairperson** informed members that she would be writing a letter to the High Commissioner for Human Rights in order to protest against the fact that the informal working group's documents had not been issued in all the working languages.

The meeting rose at 11.55 a.m.